



April 15, 2009

SECRETARY'S MESSAGE



Secretary Christian S.
Johansson

With the 2009 General Assembly session adjourned for the year, I'd like to take a moment to summarize the budget and legislative issues affecting Maryland's business community. Thanks to strong support from Governor O'Malley, the tireless commitment of our Office of Policy, Planning & Research staff, key legislators, and most importantly, the voices of the business

community, we were able to protect several important business incentive programs that help to attract and grow Maryland businesses, create jobs and expand the State's economy.

Notable successes included:

- MEDAAF funding: Although our main program to help create jobs was cut by \$6 million for both FY09 and FY10, it is far better than losing the \$10 million for FY09 and FY10 that was initially planned. Thanks again to the legislators who realized the importance of this vital job creation tool.
- Maryland's popular Biotechnology Investment Tax Credit program was able to keep its full funding of \$6 million for FY10. The program encourages investors to provide seed and early-stage funding to qualified, privately held Maryland biotechnology companies.
- Funding for our training programs, Maryland Industrial Training Program and Partnership for Workforce Quality, has been partially restored to keep our world-class workforce prepared for the jobs of tomorrow.
- The Maryland State Arts Council received a \$13.6 million budget and the Maryland Tourism Development Board received funding of \$6 million.
- The sunset provision for the Maryland Public Art Commission was successfully repealed.

- The Governor's quick action utilizing all three branches of government gave the State greater authority over the Preakness Stakes to keep it in Maryland. The equine industry is a critical component of Maryland's economy, generating more than 20,000 jobs and an annual economic impact of \$1.5 billion.

Thanks again to all our economic partners who helped support DBED's 2009 legislative agenda. If you need detailed information, please visit the Maryland General Assembly's [Web site](#) or contact my legislative staff at 410-767-6316. I look forward to working with you as we move Maryland forward through these challenging times.

Secretary

FY2010 BUDGET/BRFA OVERVIEW

[HB 100 Budget Bill - Fiscal Year 2010 Highlights](#)

The total DBED appropriation (all funds) for FY2010 is \$107.4 million (preliminary legislative appropriation).

- The operating budget includes reductions of \$7.5 million; the original DLS recommendations were for reductions of \$18.4 million;
- This represents a \$17.2 million decrease versus the current FY2009 appropriation;
- Authorizes \$20 million in Special Funds for MEDAAF;
- Provides full funding for:
 - Biotechnology Investment Tax Credit: \$6 million
 - Maryland Tourism Development Board: \$6 million
 - MSBDFA: \$17.4 million
 - Arts Council: \$13.6 million General Funds for grants (\$3 million more than anticipated).

HB 101 Budget Reconciliation and Financing Act of 2009

- Financing Programs (Sunny Day & MEDAAF) fund balance transfers reduced from \$25 million to \$17 million.
- Tourism Board General Fund allowance mandate of \$6 million for FY 2010 and beyond unchanged.
- Arts Council General Fund allowance mandate for FY2012 and future years was restored to its original form.

Federal Stimulus Funding—American Recovery and Reinvestment Act

Supplemental Budgets 1 and 2 include approximately \$2.2 billion in federal stimulus funds. While the DBED specific funding is limited to \$318,600 National Endowment for the Arts funds to the Arts Council, many other State agencies such as MD Department of Transportation, Department of Labor, Licensing and Regulation, MD Department of the Environment, and Department of Housing and Community Development received significant federal stimulus funds. Given the job creation goal of the federal stimulus, DBED will work with our traditional partner state agencies in order to use these federal stimulus funds in support of business assistance and other economic development goals.

SELECTED ADMINISTRATION PRIORITIES

SB 258/HB 309 Maryland Heritage Structure Rehabilitation Tax Credit Program

As amended, would have extended the sunset for the Maryland Heritage Structure Rehabilitation Tax Credit Program from FY2010 to FY2014 for commercial and owner-occupied residential property rehabilitations and eliminated the geographic restriction on the awarding of commercial credits. Would have maintained the credit as a 20% refundable credit awarded through a competitive ranking and rating process and maintained the commercial project cap at \$3 million and residential project cap at \$50,000. Additionally would have:

- provided a bonus credit of 5% for a commercial project defined as a high performance building (LEED certification of Gold or higher);
- allowed a recapture of the credit if a project is sold within five years of receiving the credit;
- provided that any proposed rehabilitation that included at least 30 residential rental units must set aside at least 10% of the total residential rental units for low or moderate income households whose median income does not exceed 60% of the area median income. *Failed.*

SB 274/HB 300 Tax Increment Financing and Special Taxing Districts - Transit-Oriented Development

As amended, this bill authorizes certain counties and municipalities to finance the costs of infrastructure improvements located in or supporting a transit-oriented development (TOD), including the cost for operation and maintenance of infrastructure improvements. Allows the Maryland Economic Development Corporation (MEDCO) to enter into agreements with certain counties and municipalities to use proceeds from a special taxing district, including tax incremental financing (TIF), to repay debt service on bonds issued by MEDCO on behalf of TOD projects. TIF supported bonds may cover the expense of construction, operation, or maintenance of infrastructure improvements and local tax revenues attributed to the development may be pledged for repayment of MEDCO bonds.

Effective June 1, 2009.

SB 276/HB 295 Smart Growth Measures and Indicators and Implementation of Planning Visions

This bill directs the Maryland Department of Planning to develop smart growth measurements and indicators that can be used at the local, regional, and state level to evaluate progress towards a smarter, more sustainable future. *Effective June 1, 2009*

SB 278/HB 315 Greenhouse Gas Emissions Reduction Act of 2009

Requires the Maryland Department of the Environment (MDE) to develop a plan to reduce statewide greenhouse gas emission by 25% of 2006 levels by 2020. As amended, the bill requires MDE to consider the impact of the plan on the State's ability to attract, expand, and retain commercial aviation services and to conserve, protect, and retain agriculture. *Effective October 1, 2009.*

SB 844/HB 1530 Public Service Commission - New Electric Generation Facilities - Rate Regulation and Contracts

The legislation as amended, would have allowed the State to return to a regulated electric market; would have given the Public Service Commission (PSC) oversight of a re-established integrated resource planning process and required electric companies to develop and submit to the PSC long-range plans regarding their electricity needs. Additionally, it would have required the PSC to develop a plan for residential and small commercial customers to

transition from a program of customer choice for electricity supply. *Failed.*

SB 1072 Pimlico and Laurel Park Racetracks, Bowie Race Course Training Center, and Preakness Stakes - State Purchase or Condemnation

Emergency legislation to give the State the authority to acquire by purchase or condemnation the Pimlico and Laurel Park racetracks, the Bowie Race Course Training Center, the Preakness Stakes and other specified property. Authorizes MEDCO to borrow money and issue bonds to finance the purchase of the properties. *Effective Immediately.*

DEPARTMENTAL LEGISLATION

HB 1406 Business and Economic Development - Maryland Public Art Initiative - Sunset Repeal

Removes the May 31, 2010 sunset provision on the Maryland Commission on Public Art and maintains the authorization for appropriation up to \$1 million for future fiscal years. The Commission has the expertise to advise State agencies in construction projects to integrate artistic enhancements in government constructed facilities and spaces. Additionally, public art has the potential to serve as a source of tourism revenue as a destination point. *Effective October 1, 2009.*

HB 1429 Business and Economic Development - BRAC Community Enhancement Act

As amended, makes changes to the BRAC Community Enhancement Act which include:

- Delays the start of the 10-year designation of a BRAC Zone until the first property becomes a qualified property to maximize the benefit for the local jurisdiction;
- Changes the dates that the local jurisdictions must notify the State Department of Assessments and Taxation (SDAT) regarding qualified properties and the date that SDAT will calculate the payment to the local jurisdictions to allow as much time as possible for qualified properties to be completed;
- Requires the Secretary of DBED to notify county delegations upon receipt of a BRAC Zone application.

Effective June 1, 2009 and applicable to all BRAC Zones designated after October 1, 2008.

HB 1451 Military Personnel and Service-Disabled Veterans No-Interest Loan Program

Alters the name of the Military Service-Related Loan Program and extends eligibility to businesses owned by service-disabled veterans and businesses employing a service-disabled veteran; expands permitted use of funds to allow service-disabled veterans to start new, or grow existing businesses. *Effective July 1, 2009.*

ENERGY/ENVIRONMENT

HB 801 Task Force to Study the Economic Impact of Environmental Legislation and Policy

This bill would have established a task force to study the economic impact of environmental legislation. The Secretary of DBED would serve on the Task Force as one of the Governor's appointees and DBED would provide staff for the Task Force. The bill required DBED to 1) study the impact of State environmental legislation on the number of jobs, the cost of energy, and changes in property rights; 2) develop a model State Economic Impact Statement to accompany future environmental legislation; and 3) prepare a report summarizing the findings of the task force. *Failed.*

SB 1065/HB 1569 Standing - Miscellaneous Environmental Protection Proceedings and Judicial Review

The bill prohibits contested case hearings with respect to MDE's issuance, denial, renewal, or revision of the following permits: (1) ambient air quality control; (2) landfills/incinerators; (3) discharge pollutants; (4) sewage sludge; (5) controlled hazardous substance facilities; (6) hazardous materials facilities; (7) low-level nuclear waste facilities; (8) water appropriation and use; (9) nontidal wetlands; (10) gas and oil drilling; (11) surface mining; and (12) private wetlands. The bill also applies to decisions by BPW to issue or deny a license to dredge or fill on State wetlands. Instead, a person or an association may request judicial review of these decisions if he/she meets the requirements for standing under federal law and is the applicant or participated in an applicable public participation process through the submission of written or oral comments. The petition for judicial review must be filed (1) within 30 days after publication of a notice of final determination; and (2) in accordance with the Maryland Rules. *Effective January 1, 2010.*

SMALL/MINORITY-OWNED BUSINESSES

SB 187/HB124 State Procurement - Bundling of Procurements

This bill limits the ability of State procurement units to bundle a procurement. "Bundle" is defined as consolidating two or more procurement requirements for supplies or services that were previously performed under separate contracts into one contract that is unlikely to be accessible to minority business enterprises (MBE's) or small businesses. The bill prohibits units from bundling a procurement, limiting the number of competitive bidders or offerors or limiting participation to a predetermined group of bidders or offerors for the purpose of precluding or limiting the participation of MBE's or small businesses. The bill does not apply to bundling for procurements for the Small Business Reserve Program. *Effective October 1, 2009.*

SB 211/HB 641 Minority Business Enterprise Program - Participation by Race or Gender

This bill allows a woman-owned business that is owned by a member of an ethnic or racial minority group to be certified as both a woman-owned business and as a business owned by a member of a recognized racial or ethnic group under the State's minority business enterprise (MBE) program. It also allows firms with dual certification to participate in an individual procurement contract as either a woman-owned business or as a business owned by a member of a racial or ethnic minority group, but not both. *Effective October 1, 2009.*

SB 489/HB 471 Minority Business Enterprise Certification - Cap on Personal Net Worth

This bill requires that the personal net worth cap for eligibility in the State's Minority Business Enterprise (MBE) program be adjusted annually according to the Consumer Price Index (CPI). Personal net worth does not include up to \$500,000 of the cash value of any qualified retirement savings plan or individual retirement account. The Maryland Department of Transportation, in consultation with the Attorney General's Office and specified legislative committees, must evaluate whether the personal net worth cap should be further adjusted, and report its findings to the General Assembly by December 1, 2010. *Effective October 1, 2009.*

SB 611/HB 389 Minority Business Enterprise Program - Prohibitions

This bill prohibits a prime contractor from falsely including a minority business enterprise (MBE) in a bid or proposal without requesting, receiving, or obtaining the MBE's authorization to identify the MBE in the proposal or bid. The contractor must notify the MBE of its inclusion and actually use the MBE's services to perform the contract. In addition, the contractor may not pay the MBE solely for the use of its name in the bid or proposal. The bill directs the Governor's Office of Minority Affairs to operate a fraud hotline that may be used to report violations. *Effective October 1, 2009.*

SB 656/HB 559 Procurement - Service Disabled Veteran Business Enterprise Participation

This bill would have required each State agency to establish a goal of awarding 3% of the value of its procurement contracts to businesses owned and operated by service disabled veterans. DBED would have been required to:

- develop regulations to decertify businesses that were decertified by the U.S. Department of Veterans Affairs;
- establish a system to track service disabled veteran business enterprises;
- develop educational programs to help those firms to participate in State procurement activities, and
- designate an advocate to coordinate the program and assist disabled veteran business enterprises.

Failed

HB 1554 Linked Deposit Program - Loans to Minority Business Enterprises

This bill allows borrowers under the State's Linked Deposit Program to apply for loans directly from participating lenders rather than through the Department of Housing and Community Development. It also exempts decertified minority business enterprises from having their loans reduced if their decertification is due to revenue or employment growth. *Effective October 1, 2009 and terminates September 30, 2021.*

TAXATION/TAX CREDITS

SB 40 Sales and Use Tax - Snack Tax

This bill would have imposed the State sales and use tax on snack food by repealing the current exemption. Currently, the State sales and use tax is not imposed on the sale of food by retail stores, including snack foods. *Failed.*

HB 1188 Tax Incentives and Benefits - Credits and Subtraction Modifications

This bill would have turned several of the tax credits that DBED markets to businesses into income subtraction modifications, effectively reducing their value 92%. Currently a \$1 of tax credit is worth a \$1 of tax savings. This would have reduced that value to \$0.0825. *Failed.*

SB 603/HB 1244 Corporate Income Tax - Rate Reduction and Reform

This bill required affiliated corporations to compute Maryland taxable income using combined reporting. The bill also required that the Comptroller report on the amount of additional revenue generated as a result of the combined reporting and estimate the tax rate that would return 60% of the additional revenue back to the corporate taxpayers for TY 2011. The bill stated that the General Assembly would permanently reduce the corporate tax rate to the tax rate estimated by the Comptroller in 2011. *Failed.*

TECHNOLOGY

SB 800/HB 493 Biotechnology Investment Incentive Tax Credit

The bill makes the following changes to the Maryland Biotechnology Investment Incentive Tax Credit: 1) clarifies that the definition of an investor includes an individual, 2) changes the time period from when the credit can be recaptured to two years from the year the credit is claimed, 3) clarifies that credits may be claimed in the year in which the investment was made. The last provision affects investors that were certified for investments made between July 1, 2008 and December 31, 2008, who would otherwise have to wait until tax years after December 31, 2008 to claim the credit. *Effective July 1, 2009.*

SB 948/HB1159 Economic Development - Maryland Stem Cell Research Act - Revisions

This bill would have required that at least one-third of the Maryland Stem Cell and Biotechnologies Research Fund grants or loans be awarded to for-profit companies headquartered in the State; would have provided funding priorities to nonprofit applicants that have codevelopment partnerships with the State for-profit companies. *Failed.*

SB 1018 State Retirement and Pension System - Investments - Qualified Technology or Bioscience Businesses

Would have required the State Retirement and Pension System to invest the greater of .5% or \$20,000,000 in qualified technology or bioscience businesses. *Failed.*

HB 1086 Business and Economic Development - Grants for Nanotechnology

Would have made nanotechnology enterprises and research activities eligible for financing assistance from the Maryland Economic Development Assistance Authority Fund. *Failed.*

HB 1121 Information Technology - Public-Private Deployment Initiative

The Initiative would have required the Department of Information Technology (DoIT) to implement a public-private partnership for deployment of high-speed internet service throughout the State. DoIT would have been required to contract with a nonprofit organization to undertake a statewide inventory, which must have been updated every six months. Implementation would have been accomplished through a series of regional technology planning teams, either newly created or through existing regional planning entities. The bill would have required a statewide inventory of high-speed internet service coverage through a method of GIS mapping. *Failed.*

HB 1124 Coordinating Emerging Nanobiotechnology Research in Maryland Program - Public-Private Partnerships

This bill requires the Maryland Technology Development Corporation (TEDCO) to foster public-private partnerships as feasible to carry out the purpose of the Coordinating Emerging Nanotechnology Research in Maryland (CENTR) Program. *Effective October 1, 2009.*

HB 1125 Income Tax Credit - Nanobiotechnology Investment Incentives

This bill provided an income tax credit to investors in nanobiotechnology firms. The credit was 50% of the investment up to \$250,000. The credits would have been awarded on a first-come, first-serve basis and limited to the amount appropriated by Governor and General Assembly in a reserve fund. The credit would have been refundable if the amount awarded exceeded the tax liability of the investor. The program may have been duplicative of the Maryland Biotechnology Investment Incentive Tax Credit, in that a business may have qualified under both. *Failed.*

TOURISM, FILM AND THE ARTS

SB 11/HB 360 Anne Arundel County Tourism and Economic Development Promotion Act of 2009

As amended, alters the distribution of hotel tax revenue levied within the City of Annapolis and elsewhere in Anne Arundel County. For hotel tax revenue generated in the City of Annapolis, Anne Arundel County shall distribute 2% to the Arts council and 8% to the Annapolis and Anne Arundel County Conference and Visitors Bureau in FY2012; 2.5% and 12.5% respectively for FY2013; and 3% and 17% respectively for FY2014 and each FY thereafter. The remaining hotel tax revenue is to be distributed to the City of Annapolis. From the County's share of hotel tax revenue, the County shall distribute 7% to the Annapolis and Anne Arundel County Conference and Visitors Bureau in FY2010 and 2011. For FY2012 and later, the distribution formula follows the same for hotel tax revenue generated in the City of Annapolis. *Effective July 1, 2009.*

SB 596/HB 908 Income Tax - Film Production Activity

Converted the existing Film Production Rebate Program into a tax credit program that is not subject to an annual appropriation. The value of the subsidy to each qualifying company would have increased from 25% to 28% of qualified costs, and there would be no maximum amount of credits that could be claimed in each year or by any one entity. *Failed.*

SB 884/HB 721 Frederick County - Alcoholic Beverages - Wine Festival License

This bill authorizes the Frederick County Board of License Commissioners to issue a special wine

festival license. The board may choose two weekends per year for the festival. *Effective July 1, 2009.*

SB 1020/HB 1282 Economic Development - Maryland Stadium Authority - Prince George's County Soccer Stadium

This bill authorized the Maryland Stadium Authority (MSA) to issue \$178 million in bonds, with prior approval by the Board of Public Works (BPW) to finance the Prince George's County Soccer Stadium. It establishes a Prince George's County Soccer Stadium Financing Fund to pay all expenses incurred by MSA related to the stadium. The owners of the primary professional soccer team playing in the stadium are required to pay rent sufficient to contribute to the construction costs of the stadium and pay for the maintenance and operation of the stadium. *Failed.*

HB 193 Gaming - Bingo

As amended, extends the termination date for the authority to operate electronic bingo games to July 1, 2012 and establishes the Fund for Preservation of Cultural Arts in Maryland in DBED. The bill directs a portion of the revenues from the State amusement and admissions tax on electronic bingo and electronic tip jars to the Fund. The purpose of the Fund is to provide emergency grants to cultural arts organizations to prevent their closure. *Effective June 1, 2009.*

HB 962 Prince George's County - Alcoholic Beverages - Wine Festival License

This bill authorizes the Prince George's County Board of License Commissioners to issue a wine festival license. The board may designate one weekend per year for the festival not occur 14 days before or after the Maryland Wine Festival in Carroll County, or conflict with the dates chosen for the Anne Arundel County Beer and Wine Festival, the Calvert County Wine Festival, the Charles County Beer and Wine Festival, or the Howard County Wine Festival. *Effective June 1, 2009*

HB 1461 Maryland Sesquicentennial of the American Civil War Commission

Would have established the Maryland Sesquicentennial of the American Civil War Commission and a corresponding special fund; it would have designated the Maryland State Archives to provide staff support for the commission. The

commission would have been required to report on its work to the Governor and the General Assembly by the first day of the General Assembly session each year through June 30, 2015. *Failed.*

Management shall determine position categories for special appointments in the Department.”
Effective October 1, 2009.

STATE GOVERNMENT AND PERSONNEL

[SB 556/HB 1192 State Funding Accountability Act](#)

As amended, this bill requires a unit of State government (grantor) to annually submit a report to the Department of Budget and Management listing all grants made to for profit or nonprofit recipients in the amount of \$50,000 or more by September 1. The report must contain the following information:

- name, address, and zip code of each grantee that received State aid from the grantor during the previous fiscal year; and
- the amount and description of State aid provided to the grantee.

The Department of Information Technology in consultation with the Department of Budget and Management shall develop and operate a searchable website accessible to the public. The searchable website shall contain the following information:

- the name of the grantor providing the State aid;
- the name of the grantee receiving the State aid;
- the amount and description of the State aid; and
- the zip code of the grantee that received the State aid.

Effective June 1, 2009.

[HB 735 State Personnel - Employment Categories, Modifications, and Reports](#)

This bill implements several of the recommendations of the *At-will Employment in Maryland* report, compiled by the Department of Legislative Services (DLS) in accordance with Chapter 592 of 2007 – State Employees’ Rights and Protections Act of 2007. The bill requires the Secretary of Budget and Management to evaluate all skilled and professional service positions considered special appointments and report the results by January 1, 2012, to the Governor and the General Assembly.

The bill removes the current language in DBED’s statute that states that, “An employee of the Department who is hired on or after July 1, 1995, is in the executive service or management service in the State Personnel Management System, or is a special appointment.” New language inserted in its place provides instead that, “The Secretary of Budget and

OTHER LEGISLATION OF INTEREST

[SB 820 Employee Opportunity to Purchase Act](#)

This bill would have provided a “right of first refusal” to purchase by the employees of businesses with more than 5 employees, \$25,000 in capitalization, and \$100,000 net worth, in the event that the business is to be sold, closed, or relocated out of the State. The bill would have required DBED to perform a feasibility and market study at the employees’ request and to provide other services such as credit enhancement and gap financing to supplement a bank loan towards purchase. *Failed.*

[SB 856/HB 814 Department of Labor, Licensing, and Regulation - Green Jobs Workforce Training Program](#)

As part of Maryland Greener Jobs Initiative, this bill was designed to ensure availability of a skilled workforce to meet the demands of the green jobs sector, it would have established a Green Jobs Workforce Training Program and a fund to provide grants to organizations that provide training for jobs in energy conservation, energy efficiency, and renewable energy technologies; federal stimulus funds would have been used to capitalize the fund.
Failed.

[SB 860/HB 1193 Maryland Not-For-Profit Development Center Program - Qualifying Not-For-Profit Entity Assistance](#)

Establishes a definition for a Not-For-Profit entity based on Maryland Department of Assessment and Taxation’s registration standards which require such entities to conform to the Federal Internal Revenue Service Code. This change is important for the proper implementation of the Maryland Nonprofit Development Center Program that was established under DBED in 2008. *Effective October 1, 2009.*